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Attorneys for Plaintiff
THE CONTINENTAL INSURANCE COMPANY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THE CONTINENTAL INSURANCE
COMPANY, a corporation,

Plaintiff,

v.

KAWASAKI KISEN KAISHA, LTD.
D/B/A "K" LINE, a foreign corporation;
"K" LINE AMERICA, INC., a foreign
corporation; and DOE ONE through DOE
TEN,

Defendants.

Case No. C 07-06148 WHA

**THE PARTIES' LOCAL RULE 6-2
STIPULATED REQUEST FOR ORDER
CHANGING TIME FOR HEARING OF
DEFENDANTS' MOTION TO DISMISS
PURSUANT TO TOKYO DISTRICT
COURT FORUM SELECTION CLAUSE;
DECLARATION OF JONATHAN W.
THAMES IN SUPPORT; AND
[PROPOSED] ORDER**

STIPULATED REQUEST FOR ORDER

WHEREAS defendants Kawasaki Kisen Kaisha, Ltd.'s and "K." Line America, Inc.'s
Motion to Dismiss pursuant to the Tokyo District court forum selection clause contained in the
relevant bills of lading is currently set for hearing on this Court's docket on May 8, 2008;

WHEREAS plaintiff The Continental Insurance Company opposes this motion;

WHEREAS the parties have reached in good faith a settlement of the dispute at issue in
this suit, have agreed to the form of the release, and have even transferred and received settlement
funds;

WHEREAS plaintiff's counsel deposited defendants' settlement draft into plaintiff's trust

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PARTIES' LR 6-2 STIPULATED REQUEST FOR ORDER CHANGING TIME FOR HEARING OF
DEFENDANTS' MOTION TO DISMISS, DECLARATION IN SUPPORT, AND [PROPOSED] ORDER

1 account on April 30, 2008, and is awaiting confirmation of the funds' availability (which may be
2 as early as May 9, 2008) before executing the release and dismissal with prejudice;

3 WHEREAS, according to plaintiff's counsel's law firm's bank, settlement funds are not
4 yet available in plaintiff's counsel's trust account;

5 WHEREAS the parties require additional time to finalize their settlement free from the
6 need to expend time and resources briefing a motion that will be mooted by settlement; and

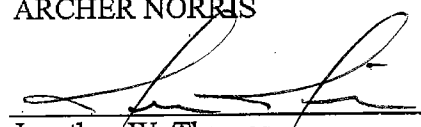
7 WHEREAS the requested time modification will have no effect on the schedule already
8 set for this case;

9 NOW THEREFORE pursuant to Local Rule 6-2 the parties stipulate this Court's entry of
10 an Order changing the time for hearing of defendants' Motion To Dismiss from May 8, 2008, to
11 June 12, 2008 (with plaintiff's opposition due on May 22, 2008, and defendants' reply due on
12 May 29, 2008), or as soon thereafter as it may be heard, and request an Order from this Court
13 confirming same.

14 DATED: May 7, 2008.

Respectfully submitted,

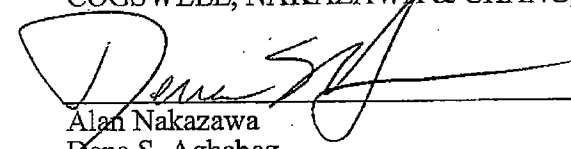
15 ARCHER NORRIS

16
17 
18 Jonathan W. Thames
19 James J. Jim
20 Attorneys for Plaintiff
21 THE CONTINENTAL INSURANCE
22 COMPANY

23 DATED: May 7, 2008.

Respectfully submitted,

24 COGSWELL, NAKAZAWA & CHANG, LLP

25 
26 Alan Nakazawa
27 Dena S. Aghabeg
28 Attorneys for Defendants
KAWASAKI KISEN KAISHA, LTD. AND
"K" LINE AMERICA, INC.

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PARTIES' LR 6-2 STIPULATED REQUEST FOR ORDER CHANGING TIME FOR HEARING OF
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TEN,

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Case No. C 07-06148 WHA

**LR 6-2(a) DECLARATION OF JAMES J.
JIRN IN SUPPORT THE PARTIES'
LOCAL RULE 6-2 STIPULATED
REQUEST FOR ORDER CHANGING
TIME FOR HEARING OF DEFENDANTS'
MOTION TO DISMISS PURSUANT TO
TOKYO DISTRICT COURT FORUM
SELECTION CLAUSE**

**LR 6-2(a) DECLARATION OF JAMES J. JIRN
IN SUPPORT OF PARTIES' STIPULATED REQUEST FOR ORDER**

I, JAMES J. JIRN, do hereby declare as follows:

1. I am an adult fully competent to make the following declaration. I am an attorney with the firm of Archer Norris, and am duly licensed to practice law before the courts of the State of California and this Court. This declaration is based on my own personal knowledge, or on information and belief as formed in my capacity as counsel for plaintiff The Continental Insurance Company. If called upon to testify, I could and would testify as set forth in this declaration.

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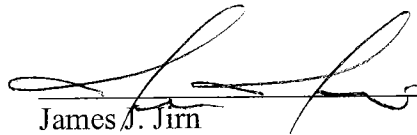
2. Defendants Kawasaki Kisen Kaisha, Ltd.'s and "K." Line America, Inc.'s Motion to Dismiss pursuant to the Tokyo District court forum selection clause contained in the relevant bills of lading is currently set for hearing on this Court's docket on May 8, 2008.

3. Plaintiff The Continental Insurance Company opposes this motion.

4. Good cause exists for an order changing the time for hearing of defendants' motion. The parties have reached a settlement this suit. They have agreed on the language of the release, and defendants have sent plaintiff's counsel settlement funds. Plaintiff's counsel has deposited the settlement funds into his firm's trust account, but the check has not cleared yet. Once the check has cleared, plaintiff's counsel will sign the release and file a Stipulation of Dismissal with prejudice. Some additional time to finalize the settlement free from the need to expend time and resources briefing a motion that will clearly be mooted by settlement would be very welcome.

5. Pursuant to LR 6-2(a)(3), the requested time modification will have no effect on the schedule already set for this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. This Declaration was executed on May 7, 2008, at Walnut Creek, California.


James J. Jirn

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Case No. C 07-06148 WHA

**[PROPOSED] ORDER GRANTING THE
PARTIES' LOCAL RULE 6-2
STIPULATED REQUEST FOR ORDER
CHANGING TIME FOR HEARING OF
DEFENDANTS' MOTION TO DISMISS
PURSUANT TO TOKYO DISTRICT
COURT FORUM SELECTION CLAUSE**

Based on the above Stipulation of Counsel and Declaration of James J. Jirn, counsel for plaintiff, it is

ORDERED that defendants' Motion to Dismiss, currently set for hearing on May 8, 2008, at 8:00 a.m., be reset for hearing on June ____, 2008, at ____ .m., before the undersigned in Courtroom 9, 19th floor, of the United States Courthouse, 450 Golden Gate Ave., San Francisco, California, and that the Court's docket be modified accordingly.

Dated: May ____, 2008.

The Honorable William H. Alsup
United States District Judge

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